

Appendix 7e
Blackpool Council and CCG Personal Budget Policy
Relates to Children/ Young people aged 0-25 with Special Educational
Needs and their Families

Logos to be inserted following agreement
Version 1.6

Date 25-4-14

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1. Background

1.1 The following policy related to the duties of Blackpool Council and Blackpool Clinical Commissioning Group in relation to the Children and Families Act, 2014 (section 49), the Statutory Guidance and Code of Practice for special educational needs and disability 0-25 years, 2014 (9.92- 9.121)

1.2 It has been developed by a group including parents, schools, health providers, commissioners, social care and education. The views of children and young people have also fed into the policy.

1.3. The Education, Health and Care plan will offer a personal budget for aspects of the provision outlined in it, if parents or young people wish it. The request can be made either at during a statutory assessment (at the draft Plan stage), or when an Education, Health and Care Plan is being reviewed/ re-assessed. Personal budgets are an allocation of funding made for children and young people with SEN and their families, after an assessment of their needs and will be outlined in an Education, Health and Care Plan (EHCP). It will cover aspects of the Plan that can be offered as a personal budget. It will not cover the cost of a named educational placement

1.4 Personal budgets are designed to pay for the elements of provision that the local and health authorities have agreed can be offered as a direct payment. A direct payment will be the mechanism of receiving the personal budget.

1.5 The statutory regulations state

“Direct payments may only be made if the person

(a) appears to the local authority to be capable of managing direct payments without assistance or with such assistance as may be available to them;

(b) where the recipient is an individual , is over compulsory school age;

(c) does not lack capacity within the meaning of the 2005 Act to consent to the making of direct payments to them or to secure the agreed provision with any direct payment ; (this means the person must have the mental capacity to manage a budget) and

(d) is not a person described in the Schedule.” (see part 6 of this policy, to say who this applies to)

1.6 The policy applies to any child or young person with Special Educational Needs (SEN), who has an Education, Health and Care Plan (EHCP) and where a personal budget has been requested and agreed.

1.7 Parents have control of a personal budget up to the end of year 11 (post compulsory school age). It is then the young person who has this responsibility, as long as they have the mental capacity as defined by the Mental Capacity Act, unless they elect for their parent/carer to manage their funding

1.8 Personal budgets are an allocation of funding given to children and young people, with SEN and their families after an assessment of their needs and an Education, Health and Care Plan (EHCP). If eligible, the personal budget can be taken as a direct payment,. Parents and young people, whilst still choosing how their care, education and health needs are met and by whom can leave the council/ health authority with the responsibility to commission the services. A third party can also be nominated to manage the budget for the parent/ young person, as long as they have been approved to do so by the Local Authority. The list of these will form part of the Local Offer site. Some people may choose a combination of the three ways of delivering services outlined. Personal budget funding would be allocated by a Direct Payment, with an agreement about the use of this.

1.9 The aim of Direct Payments is to increase an individual's independence and choice by giving them control over the way services they receive are delivered. Direct payments are cash payments made instead of, either fully or partly, of specified services from local authority or health services. The payment must be sufficient to enable users to purchase services to meet their needs, and must be spent on services that meet the outcomes and services as laid out in the EHCP.

1.10 Direct Payments allow people to take more control of their lives and decide which services they should purchase themselves, rather than having them provided. Therefore there is increased choice about the services to meet individual need. They are only applicable for certain aspects of the EHCP and will entail increased responsibility, for instance the employment aspects of any people directly employed as part of this process.

2. Process

2.1 When a statutory assessment of SEN commences, the personal budget process will be discussed with the family (young person if post compulsory school age), to see if this is something they may be interested in pursuing, if eligible. The benefits and

responsibilities around the personal budget will be explained by either a lead professional, or the authority leaflet. An indicative amount will be given, if possible, at this stage. Some families may already be accessing personal budgets in terms of care, and these will continue throughout the statutory process, and be incorporated, as relevant, in the final EHCP if one is issued.

2.2 The dedicated person centred meeting in the assessment process will outline the needs of the child/ young person, outcomes wanted from the EHCP, and provision to meet these.

2.3 All professional reports will outline the provision required, from their perspective, where appropriate, in the form of a matrix. The parent and child/ young person contributions will be a vital part of the co-production of the plan. At the dedicated person centred meeting the exploration of a personal budget, and a decision if a family/ young person (post compulsory school age, year 11) wishes to pursue this will occur. The person centred planning will outline what each party to the plan, including the community, young person/ child and their family will contribute.

2.4 The EHCP will be costed, within a value for money context (e.g. not costing more than services provided directly). Throughout the statutory assessment there will be a cycle of understand- agree- allocate- plan – review cycle. This will run alongside the assess- plan-do-review cycle, which is ongoing for all pupils/ students with Special Educational Needs. . The process will allow a co-production of the plan whilst ensuring it meets the value for money aspects. Part of the discussion with a parent and young person will be the difference in the allocation of an education element if the parental/ young person choice is mainstream or special provision (as outlined in the Code of Practice 9.110)

2.5 At the point of the nomination of the name of the school/ college the aspects of a personal budget that could be part of a plan (see section 3 of this policy) will be outlined, if parents/ young people have expressed a wish to have a personal budget. This would also occur if a third party had been nominated to manage the budget for the parent/ young person. The other option would be for the local authority and health to manage the provision in the personal budget for them. Parents/ young person can say which aspects of their plan they would like in a personal budget to increase choice, via written feedback, and/or clear records of minutes, as part of the person centred planning meeting.

2. 6 If nominated and mutually agreed, a personal budget can be managed for an individual by another person/ organisation. This has to be agreed with the parent or young person, if post school age. The choice to do this can be withdrawn at any point by either writing to ask to stop this or by a nominated advocate doing this for them. If this request occurs the local authority will

immediately stop making the payment to the other person/ organisation and agree a suitable alternative. This could be options such as using a broker to help them manage the budget, doing it themselves or reverting to the local authority and health brokering support for them. The approval, for a third party, would only occur with people/ organisations approved by the local authority/ health authority for this purpose.

2.7 If a personal budget is agreed, each agency will place money into a central location for parents to receive the budget from Direct Payments. Any agreed costs from health would be paid by the agreed process to fund the plan. The money will be given to parents/ young people on a 4 weekly basis. The monitoring of a personal budget is outlined in section 4. The eventual aim will be for pooled budgets between health and the council, but this will not be able to occur by September 2014.

2.8 Parent and/or the young person will be expected to sign a Direct Payment Agreement before the payment is made. This will outline the parameters of use of the payments and how it should be managed. It will also outline other aspects, such as any employed people having to have an enhanced Disclosure Barring Service (criminal record) check.. .

2.9 If a parent/ young person would want to use a personal budget to pay for support staff in school/ college this discussion should occur at an early stage as possible, as part of the person centred planning, since these staff can only be used in schools/ colleges with the permission of the school head teacher or college principal. Any staff employed in schools/ colleges would have to follow that institutions code of conduct, for instance in speaking to others and dress.

2.10 In the circumstances of a request for the extra resources normally supplied to support a student by a college/ school budget (termed elements 1 and 2) being requested as a personal budget, this too must occur at as an early stage as possible. It is likely that this would only be agreed by the school/ college in certain circumstances where a creative solution to provision is required.

2.11 Although there will normally be a set amount of money paid on a 4 weekly cycle there may be one off payments, for instance around specific equipment needs, that could be paid via the direct payment mechanism. A value for money judgement will be made in these circumstances. The equipment would need to meet professional specifications and maintained of the equipment would be required. If used in a school agreement of the setting would need to occur.

3. What Could Be Included in a Personal Budget?

3.1 The exact aspects of what could be included in a personal budget, relating to an individual child or young person would be outlined in the EHCP. A full costed plan, for instance by a matrix, would be at the end of the plan to outline both the costs of the provision and aspects that could be included, as outlined in the Children and Families Bill/ related guidance. There would be cost effectiveness criteria for the provision of a personal budget statutory guidance 14-1-d. Services that are supplied as part of a block contract would not normally be offered as a personal budget under this value for money criteria. This would also apply to other areas where it is difficult to disaggregate an individual cost from an overall amount (Code of Practice 9.103).

3.2 If agreed the following aspects could be included, if a parent, young person over post compulsory school age requests a personal budget:

Health

Currently those children who are entitled to Children's Continuing Care funding. It would also apply to long term health needs from April 2015.

Care

The budget would include funding arising from the assessed needs of children in need and individual funding necessary to provide the family of a child with a short break or family support.

Education

This would include parts of, or all of element 3 of the school budget. Element 3 is the amount above what every pupil receives and the initial £6 000 of individually targeted school provision that the school provides. At the discretion of the head teacher/ college principal it could also include all/ parts of element 1/ 2 funding. If the pupil/ student is in a specialist college or special school it may not be possible to include all or part of this element because it will be part of the overall provision. Any staff employed by parents/ young people would have to have the school or college permission (usually the Head teacher or Principal) to work within that setting. Therefore this would need to be carefully planned as part of the assessment process and agreement for the personal budget.

Transport

If requested, and meeting the transport criteria, as in the Blackpool transport policy (Local Offer site), an amount per mile (outlined in the annual transport policy) would be granted if a personal travel budget was requested.

4. Managing and Using a Personal Budget

4.1 Parents would have control of the agreed personal budget in regard to the management and spend of it. From the end of compulsory schooling (Y11) this will change to the young people, unless unable to do so under the Mental Capacity Act, or unless the young person requested that the family manage the funding on their behalf.

4.2 Decisions/ discussions about this will occur at the point of transfer, if an agreement occurs that a young person is of an age and able to manage the budget. . A social worker or mental health worker would normally make the decision about mental capacity in terms of the specific question concerning the young person's capacity to manage a personal budget at that point in time. The process would only be applied if a personal budget was requested and would be about the management of the personal budget and ability to make decision about this, in terms of meeting the outcomes and provision in the Education, Health and Care Plan. .

4.3 If help is required in managing a personal budget this could occur from the Direct Payment team. The personal budget would only be agreed, if assistance was required in managing it, if this support had been secured. The decision over this would fall under a mental capacity act assessment or if the parent/ young person requested assistance.

4.4 Clear information about services and provision available in the area that could be used with a personal budget will be available via the Local Offer (on the Blackpool Family Information Service site). This will be updated on a regular basis. If a parent or young person wishes to use provision not listed in the Local Offer they should approach the Service Manager SEND for education or care or lead commissioner for health If this provision would need validating to be part of the Local Offer a process will occur to enable this decision to be made.

4.5 A personal budget could be used in creative ways, rather than in clearly defined areas to meet the provision and outcomes listed in the EHCP. If this were to occur agreement by all parties (where appropriate the young person, parents, the local authority and relevant agencies) would have to occur, possibly by a person centred meeting as part of an annual review or the statutory assessment process

4.6 Monitoring by each agency would occur to ensure that the outcomes and provision in the EHCP are being met. At the minimum there will be a six monthly review by care, with one of these reviews being part of the annual review by all parties.

However, more regular reviews can occur as required, for instance the family/ young person directly contacting a lead worker to say that they wish to change arrangements because the current ones are not meeting their needs.

4.7 If it were found that the personal budget was not being used to meet the provision/ outcomes outlined in the EHCP it could be withdrawn and the health authority/ local authority commission services.

4.8 If parents and/or young people wish to combine Personal Budgets to provide value for money this can be done as part of community commissioning in agreement with the appropriate health and/or local authority commissioners. Community commissioning is outlined in the Joint Commissioning Plan on the Local Offer website.

4.9 Parents/ young people would be expected to keep within the direct payment, although provision could be supplemented by another source such as personal finances or a local charity.

5. Managing Changes to Circumstances

5.1 If family circumstances change in any way these will be taken into account as part of the regular review of needs and the direct payments. There would also be the possibility of feedback from the family/ young person to say how a direct payment was working for them.

5.2 This regular review will also occur as part of the assess-plan-do-review cycle in terms of a child/ young person's development. On a formal basis this will occur as part of the annual review, but can occur for individual elements more frequently than this. If this occurs then the financial matrix at the end of the EHCP will be modified. If a significant change in needs occur, then a review sooner than annually will occur to amend the text in the EHCP as well.

5.3 If there are fluctuating circumstances, for instance a child who has different care and health needs dependant upon a health condition, then this will be taken account of in the plan, if mutually agreed. This could either entail the family being able to request a "top up" amount or there being a contingency that could be reclaimed by the local authority and / or health at the end of the financial year. This will be built into the ongoing discussion, between the family/ young person and lead worker from the appropriate agency and/or a key worker if there is one for the family./ young person.

6. Who would be excluded from holding a personal budget

6.1 The regulations (the legal guidance for the law relating to personal budgets) state the following:

“The following persons may not receive direct payments

(a) a person who is subject to a drug rehabilitation requirement, as defined by section 209 of the Criminal Justice Act 2003(a), imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;

(b) a person who is subject to an alcohol treatment requirement, as defined by section 212 of the Criminal Justice Act 2003, imposed by a community order within the meaning of section 177 of that Act or by a suspended sentence order within the meaning of section 189 of that Act;

(c) a person who is released on licence under Part 2 of the Criminal Justice Act 1991(a), Chapter 6 of Part 12 of the Criminal Justice Act 2003 or Chapter 2 of Part 2 of the Crime (Sentences) Act 1997(b) subject to a non-standard licence condition requiring the offender to undertake offending behaviour work to address drug-related or alcohol related behaviour;

(d) a person who is required to submit to treatment for their drug or alcohol dependency by virtue of a community rehabilitation order within the meaning of section 41 of the Powers of Criminal Courts (Sentencing) Act 2000 or a community punishment and rehabilitation order within the meaning of section 51 of that Act(c);

(e) a person who is subject to a drug treatment and testing order imposed under section 52 of the Powers of Criminal Courts (Sentencing) Act 2000(d).

(f) subject to a youth rehabilitation order imposed in accordance with paragraph 22 (drug treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to a drug treatment requirement.

(g) subject to a youth rehabilitation order imposed in accordance with paragraph 23 (drug testing requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which includes a drug testing requirement.

(h) subject to a youth rehabilitation order imposed in accordance with paragraph 24 (intoxicating substance treatment requirement) of Schedule 1 to the Criminal Justice and Immigration Act 2008 which requires the person to submit to treatment pursuant to an intoxicating substance treatment requirement.”

6.2 Anyone who has a child with an EHCP, or is post compulsory school age with one, can request a personal budget to meet their needs as outlined in the EHCP. This would be granted unless the following circumstances:

- The child is in care. If in long term foster care the foster parents may access a personal budget if there is agreement as part of a care plan
- The child has a Child Protection Plan. Any use of a personal budget would have to be part of the plan agreed at the multi professional Core Group meeting. If the use of it was felt not to meet the aims of the plan, and to compromise the safety of the child/ young person, it would not be agreed
- A person subject to a drug or alcohol treatment programme (as in the regulations). If the person wishes to receive a direct payment and may be covered by this, there will be a discussion between the local authority and person involved to explore their particular circumstances in relation to the regulations. If a person has a gambling addiction this also may preclude them from receiving a personal budget.
- The young person has a youth rehabilitation order

7. Appeal Process

7.1 An appeal can occur under the following circumstances:

- An aspect of provision listed in the Education, Health and Care Plan has not been offered in a personal budget, which is wished for by the parent of young person if old enough and with the mental capacity to appeal
- A personal budget has not been offered
- The monies listed are felt not to be sufficient to cover the needs of the young person

7.2 An appeal would then be made. Initially it would go to the appropriate commissioner to respond to . This must be in writing to Dr Simon Jenner for education/ care aspects and Mrs Helen Lammond- Smith for health aspects(contact detail below) . If the parent/

young person still disagrees with the decision they would then take the appeal to the commissioning board (see the Commissioning Plan on the Local Offer site).

7.3 Due legal process regarding any appeals will be followed as laid out in the Children and Families Act 2014 and/or the Code of Practice relating to the personal budgets for SEN and disability aspects of this legislation

8. Ceasing Direct Payments

8.1 Direct payments could cease if

- The person is in the categories listed in section 6.1
- they are found not to be used for the specific purpose outlined in the EHCP
- If the recipient no longer wishes to use direct payments to provide the provision, they will cease as soon as this request is received in writing and alternatives can be arranged
- The use of direct payments is having an adverse impact on other services provide by the local authority or having an impact on the provision for other children and young people with an EHCP.
- There has been no consent from a young person post statutory school age to receive them

8.2 In these circumstances notice in writing will be given by the local authority, along with the rights of appeal, by the recipient saying they wish to do so. This appeal will be heard by the Commissioning Board.

9. Contact Details

EHCP Process: Dr Simon Jenner, Blackpool Council, Blackpool Football Club. Simon.Jenner@blackpool.gov.uk

Health: Helen Lammond-Smith, Blackpool Football Club

Education: Dr Simon Jenner , Blackpool Council, Blackpool Football Club Simon.Jenner@blackpool.gov.uk

Care: Ruth Hurst , Blackpool Council, Blackpool Football Club

Direct Payment Team: Maureen Turner XXXX

Independent groups who may be able to help with brokering your budget: XX

Advocacy Services: XX
Transport Team: XX

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